



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220919-0193; RTID 0648-XD628]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; General Category January through March Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS is transferring 20.5 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the General category December 2024 subquota to the January through March 2024 subquota period. The adjusted General category January through March 2024 subquota is 58.2 mt. This action provides further opportunities for General category fishermen to participate in the January through March General category fishery, based on consideration of the regulatory determination criteria regarding inseason adjustments. This action would affect Atlantic Tunas General category (commercial) permitted vessels and Atlantic Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

DATES: Effective January 12, 2024, through March 31, 2024.

FOR FURTHER INFORMATION CONTACT: Ann Williamson,
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SUPPLEMENTARY INFORMATION: BFT fisheries are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA;

16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

As described in § 635.27(a), the current baseline U.S. BFT quota is 1,316.14 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The baseline quota for the General category is 710.7 mt. The General category baseline quota is suballocated to different time periods. Relevant to this action, the baseline subquotas for the January through March time-period and for the December time-period are 37.7 mt and 37.0 mt, respectively.

Transfer from the December 2024 Subquota to the January through March 2024 Subquota

Under § 635.27(a)(1)(ii), NMFS has the authority to transfer subquota from one time period to another time period through inseason action after considering determination criteria provided under § 635.27(a)(7). This section focuses on the calculations involved in transferring quota available from the 2024 General category December time period subquota to the 2024 General category January through March time period subquota; the consideration of the determination criteria can be found below after this section.

As stated above, the baseline subquotas for the January through March time-period and for the December time-period are 37.7 mt and 37.0 mt, respectively.

Transferring 20.5 mt from the General category December time period to the General category January through March time period, results in an adjusted January through March time period subquota of 58.2 mt ($37.7 \text{ mt} + 20.5 \text{ mt} = 58.2 \text{ mt}$), and an adjusted December time period subquota of 16.5 mt ($37 \text{ mt} - 20.5 \text{ mt} = 16.5 \text{ mt}$). The General category quota is available for use by Atlantic Tunas General category (commercial) permitted vessels and HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

In summary, this transfer results in an adjusted January through March 2024 time period subquota of 58.2 mt and an adjusted December 2024 subquota of 16.5 mt. The General category fishery will remain open until March 31, 2024, or until the adjusted General category quota is reached, whichever comes first.

Consideration of the Relevant Determination Criteria

NMFS has considered all of the relevant determination criteria and their applicability to this inseason quota transfer. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(7)(i)), biological samples collected from BFT landed by General category fishermen and provided by tuna dealers provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the General category would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered General category catches in the December and January through March time periods over the last several years and the likelihood of closure of the January through March segment of the fishery if no adjustment is made (§ 635.27(a)(7)(ii) and (ix)). Without a quota transfer at this time, based on recent catch

rates in comparison to the current available quota (37.7 mt), NMFS would likely need to close the General category fishery shortly. Once the fishery is closed, participants would have to stop BFT fishing activities while commercial-sized BFT remain available in the areas where General category permitted vessels operate. A quota transfer at this time provides limited additional opportunities to harvest the U.S. BFT quota while avoiding exceeding it.

Regarding the projected ability of the vessels fishing under the General category quota to harvest the additional amount of BFT quota transferred before the end of the fishing year (§ 635.27(a)(7)(iii)), NMFS considered General category landings over the last several years and landings to date this year. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors. NMFS may adjust each time period's subquota based on overharvest or underharvest in the prior time period and may transfer subquota from one time period to another time period. By allowing for the current quota adjustment and transfer, NMFS anticipates that the General category quota would be used before the end of the fishing year. This quota transfer would allow fishermen to take advantage of the availability of BFT that are currently on the fishing grounds and provide a reasonable opportunity to harvest the available U.S. BFT quota.

NMFS also considered the estimated amounts by which quotas for other gear categories of the BFT fishery might be exceeded (§ 635.27(a)(7)(iv)) and the ability to account for all 2024 landings and dead discards. In the past few years, total U.S. BFT landings have been below the available U.S. quota such that the United States has carried forward the underharvest as allowed by ICCAT from one year to the next. NMFS will need to account for 2024 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that.

NMFS also considered the effects of the transfer on the BFT stock and on accomplishing the objectives of the 2006 Consolidated HMS FMP (§ 635.27(a)(7)(v) and (vi)). This transfer would be with established quotas and subquotas, which are implemented consistent with ICCAT Recommendation 22-10, ATCA, and the objectives of the 2006 Consolidated HMS FMP and amendments. In establishing these quotas and subquotas and associated management measures, ICCAT and NMFS considered the best scientific information available, objectives for stock management and status, and effects on the stock. This quota transfer is in line with the established management measures and stock status determinations. Another principal consideration is the objective of providing opportunities to harvest the available General category quota without exceeding the annual quota, based on the objectives of the 2006 Consolidated HMS FMP and its amendments, including to achieve optimum yield on a continuing basis and to allow all permit categories a reasonable opportunity to harvest available BFT quota allocations (related to § 635.27(a)(7)(x)). Specific to the General category, this includes providing opportunities equitably across all time periods.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustments, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General category and HMS Charter/Headboat vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or the end of each trip, by accessing <https://www.hmspermits.noaa.gov> or by using the HMS Catch Reporting app or calling 888-872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and regulations at 50 CFR part 635 and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity to provide comment on this action, as notice and comment would be impracticable and contrary to the public interest for the following reasons. Specifically, the regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Providing for prior notice and opportunity to comment is impracticable and contrary to the public interest as this fishery is currently underway and, based on current landings information, the available time period subquota is projected to be reached shortly. Delaying this action could result in BFT landings exceeding the January through March time period subquota. Taking this action does not raise conservation and management concerns. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria.

For all of the above reasons, the AA finds that pursuant to 5 U.S.C. 553(d), there is good cause to waive the 30-day delay in effective date.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: January 11, 2024.

Everett Wayne Baxter,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

[FR Doc. 2024-00809 Filed: 1/12/2024 4:15 pm; Publication Date: 1/18/2024]